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September 11, 2009

Via Electronic Case Filing

The Honorable William C. Griesbach
United States District Judge
Jefferson Court Building
125 S. Jefferson St., Suite 203
P.O. Box 22490
Green Bay, WI 54305-2490

RE: Kimberly-Clark v. Tyco Healthcare Group LP, et al. E.D. Wisc. 09-C-429

Dear Judge Griesbach:

The parties write at Your Honor's request and in response to Your Honor's letter of September 3, 2009 (D.I. 60) regarding scheduling for the above-captioned case. The parties have agreed upon and request some modifications to the additional dates the Court has proposed. These modifications are indicated in boldface type in the chart below.

First, the parties request that, on October 29, 2009, rather than prepare a Joint Claim Construction Chart, Plaintiffs will instead identify the asserted claims. Second, as the Court suggested, the parties will file a Joint Claim Construction Statement by December 1, 2009. This Statement will identify the claim terms in dispute, without providing any proposed constructions. This Statement will also suggest a joint construction, as necessary, for any remaining terms that appear to require construction. Third, the parties request that they be permitted to simultaneously file opening *Markman* briefs on December 17, 2009, and simultaneously file *Markman* response briefs by January 14, 2010. Fourth, the parties request that there be no additional *Markman* reply brief. Finally, the parties request that, subject to the Court's schedule, a *Markman* hearing be held on Thursday, January 21, 2010.

<u>Event</u>	<u>Proposed Date</u>
Initial Disclosures	August 24, 2009
Deadline to Amend the Pleadings and Join Parties	October 15, 2009

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Claim Construction Discovery Closes	November 1, 2009
Plaintiffs to serve identification of asserted claims	October 29, 2009
Joint Claim Construction Statement Deadline	December 1, 2009
<i>Markman</i> Brief Deadline (both parties)	December 17, 2009
<i>Markman</i> Response Brief Deadline (both parties)	January 14, 2010
<i>Markman</i> Hearing (subject to the Court's discretion and availability)	January 21, 2010
Fact Discovery Closes	April 1, 2010
Expert Reports Deadline (for issues on which a party bears the burden of proof)	April 15, 2010
Rebuttal Expert Report Deadline	May 13, 2010
Expert Discovery Closes	June 3, 2010
Dispositive Motion Deadline	June 17, 2010
Dispositive Motion Response Brief Deadline	July 8, 2010
Dispositive Motion Reply Brief Deadline	July 22, 2010
<i>*Approximate date of the Court's Order on the Dispositive Motions (Court's discretion)</i>	<i>August 2010</i>
Final Pretrial Conference	September 15, 2010
Trial	October 4, 2010

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If these modifications are acceptable to the Court, the parties respectfully request that the Court issue a scheduling order that reflects the parties' proposal. Please let us know if any of the issues raised in this letter require further clarification.

Respectfully submitted,

s/Daniel T. Flaherty

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